IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 20390 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

STUTI OWNERS ASSOCIATION CHAMPANER SOCIETY, - Petitioner(s)

Versus

THE DEPUTY COLLECTOR STAMP DUTY VALUATION DEPT., & 1 - Respondent(s)

==========

Appearance :

MR BHARAT JANI for Petitioner(s) : 1,
MR LR PUJARI GOVERNMENT PLEADER for Respondent(s) : 1 - 2.

==========

CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 24/12/2007

ORAL JUDGMENT

1.0 By way of this petition, the petitioner-Society has prayed to quash and set aside the order dated 19.02.2005 passed by the Collector of

Stamps, Office of the Stamp Duty Valuation Department, Gymkhana, Nr. Canteen, Polytechnic Compound, Ambawadi, Ahmedabad.

2.0 The brief facts of the case are that the petitioner-Society, herein, purchased a property being Bungalow No.7 named as 'Sarva Mangal', constructed on Final Plot No.397 to 400 of T.P. Scheme No.6 ad-measuring 502.60 sq.mts., situated at taluka city, District and sub-District Ahmedabad-4(Paldi) vide registered Sale Deed No.3434 dated 14.10.1997 for Rs.40,00,000/-.

2.1 In pursuance of that respondent No.1 issued notices dated 13.07.2004 and 19.10.2004 addressed to one Utpal Bhupendrabhai Desai who was the promoter of the Scheme. However, since said Utpal Bhupendrabhai Desai had already resigned after promoting the scheme of residential houses, he did not inform the petitioner-Society about the impugned order passed by respondent No.1. Later on, the

petitioner-Society came to know about the impugned order and obtained a certified copy thereof. In the said order it was stated that the market value of the property in question was Rs.60,04,800/-, and hence, the petitioner-Society has to pay the deficit stamp duty totaling to Rs.1,50,610/-. Hence, the present petition.

3.0 Mr. Jani, learned Advocate for the petitioner-Society has submitted that neither any material supplied nor any reasons are assigned for the valuation done by the respondent No.1 and that the order has been passed in a cyclostyled form by filling up blanks.

3.1 He has further submitted that the respondent No.1 ought to have given an opportunity of hearing to the petitioner-society before passing the impugned order.

4.0 Heard learned Counsel for the parties and

perused the documents placed on record it transpires that respondent No.1 has not supplied any material to the petitioner on the basis of which the valuation of the property has been determined. In that view of the matter here it would be relevant to refer to decision of this Court in the case of ***"B.M. Bharwad Vs. State"*** reported in 2005(2) GLR 1792 wherein ***it has been observed that it is the statutory duty of the Officer to convey in the notice the material on the basis of which the valuation of the property has been determined***.

4.1 In the case on hand, the respondent No.1 has not supplied any material to the petitioner on the basis of which the valuation of the property of the petitioner was determined. Respondent No.1 has also not given any reasons as to on what basis he came to the conclusion that the market value of the property of the petitioner determined by it was just and proper. Apart from that without giving an opportunity of

hearing to the petitioner-Society, respondent No.1 ex-parte passed the impugned order.

4.2 The aforesaid fact shows that the respondent No.1 has passed the impugned order without applying his mind. Admittedly, neither any material has been supplied nor any reasons have been assigned by respondent No.1 for passing the impugned order.

4.3 The respondent No.1 is quasi-judicial Authority, and hence,being a quasi-judicial authority, it is required to supply the relevant material on the basis of which the valuation of the property of the petitioner was determined. Apart from that, it is also required to deal with the contentions raised by the parties concerned and to consider various provisions of the Act and the law laid down by this Court. I am, therefore, of the opinion that the ends of justice would be met if the matter is remanded to the respondent No.1 for its consideration afresh

on merits.

5.0 In the result, the petition is allowed. The impugned order passed by respondent No.1- the Collector of Stamps, Office of the Stamp Duty Valuation Department, Gymkhana, Nr. Canteen, Polytechnic Compound, Ambawadi, Ahmedabad dated 19.02.2005 is quashed and set aside. The matter is remanded to the respondent No.1-Authority for its consideration afresh on merits. The respondent No.1-Authority, after hearing the petitioner and after considering all the contentions raised before it, shall pass a reasoned order without being influenced by the order passed by this Court. Rule is made absolute. No order as to costs.

(M.D. Shah,J.)

Umesh/